

REPORT - PLANNING COMMISSION MEETING
January 27, 2005

Project Name and Number: Atria Townhomes GPA & R-3 REZONING (PLN2004-00177)

Applicant: Shyam S. Gopal, Atria Developers

Proposal: To consider a General Plan Amendment from 15 to 18 dwellings per acre to 18 to 23 dwellings per acre and Rezoning from R-G-29 to R-3-23 for a 0.686-acre parcel.

Recommended Action: Recommend General Plan Amendment and Rezoning to the City Council

Location: 41762, 41778 and 41786 Fremont Boulevard

Assessor Parcel Number(s): 525-0611-053-02

Area: 0.686 acres

Owner: Shyam S. Gopal, Atria Developers

Agent of Applicant: Jitender Makkar, Designer, Edge Concepts, Inc.

Consultant(s): Jitender Makkar, Designer, Edge Concepts, Inc.
Robert Karn, Surveyor and Engineer, Robert A. Karn & Associates, Inc.
Patrick Morrison, Geologist, Smith-Emery Company GeoServices Division
William R. Stevens, Geotechnical Engineer, Consolidated Engineering Laboratories

Environmental Review: A Mitigated Negative Declaration has been prepared for this project.

Existing General Plan: Medium Density Residential 15-18 Dwelling Units/Acre

Existing Zoning: R-G-29, Garden Apartment Residence District

Existing Land Use: Vacant (structures on site previously demolished and removed)

Public Hearing Notice: A total of 132 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Fremont Boulevard, Haven Avenue, Wildflower Common, Penny Terrace, Stanley Avenue, among others. The notices to owners and occupants were mailed on January 14, 2005. A Public Hearing Notice was delivered to The Argus on January 10, 2005 to be published by January 13, 2005.

Executive Summary: The project consists of a proposed General Plan Amendment and corresponding Rezoning to allow for, and to facilitate the development of, a multi-family development with a minimum of 14 dwelling units on a 0.686-acre parcel. The project parcel is located on Fremont Boulevard in the Irvington Planning Area. The "Irvington Gateway Sign" flanks the southwest side of the parcel in the public right-of-way. This proposal is consistent with the City's General Plan Housing Element policies for development of multi-family housing. Staff recommends that the Planning Commission recommend the proposed project to the City Council for approval.

Background and Previous Actions: The Housing Element adopted by the City Council on May 13, 2003 includes goals, policies and objectives implemented through several programs to accommodate regional housing needs as determined by the Association of Bay Area Governments. To date, several of the Housing Element goals and policies have been completed and implemented through the numerous implementation programs. Redesignations and rezonings of vacant or underutilized land largely undertaken by staff have been recommended by the Planning Commission and approved by the City Council in 2003 and 2004. Staff confirmed that a majority of the underutilized or vacant acreage identified has been redesignated and/or rezoned in the September 14, 2004 "Annual Report on the Status of the General Plan and

Implementation of the City's Housing Element". This percentage includes City- and private sector-initiated redesignations and rezonings. The proposed project is a private-initiated project on a parcel that is identified as an underutilized site in Program 18 of the Housing Element.

In June of 2003, the City Council also adopted a new multi-family zoning district, the R-3 Multi-family Zoning District, to assist the City in meeting its regional housing needs as described in the City's General Plan Housing Element Policy 3A, Program 11, as well as to help guide and streamline the development of multi-family housing. Consistent with the goals and policies of the Housing Element, the intent of the new R-3 District is to facilitate and encourage the development of higher density residential projects, while also providing incentives for affordable housing developments. The standards adopted for the R-3 district are suitable for the City's remaining infill sites and provide developers with clear standards that also allow for flexibility. To facilitate high quality development, under the R-3 District all projects are required to receive Site Plan and Architectural Approval (SPAA) through the Finding process by either the Development Organization (staff level for projects consisting of 10 units or less) or the Planning Commission (for all projects of 11 units or more).

On February 10, 2004, the applicant submitted a General Plan Amendment and Rezoning application. Due to the completion of the previously ongoing environmental remediation on site and the preparation of necessary environmental studies, the project was not scheduled for consideration at an earlier date.

On November 3, 2004, the applicant also submitted a Finding for Site Plan and Architectural Approval (SPAA), which included preliminary plans for the development of a 14-unit multi-family residential project. Currently, the applicant is responding to staff's comments relating to architectural design and site planning concerns. Because the project involves more than 11 dwelling units, Planning Commission consideration of the Finding is required and will be requested at a later time, provided that the General Plan Amendment and Rezoning are ultimately approved by the City Council. At that time, the Planning Commission will be presented with the proposed architectural elevations and site development plans for approval.

Project Description: The project is a recommendation of (a) General Plan Amendment (GPA) to change the land use designation from Medium Density Residential, 15-18 Dwelling Units per Acre (DU/AC), to Medium Density Residential, 18-23 Dwelling Units per Acre; and, (b), a corresponding Rezoning to change the zoning designation from R-G-29 (Garden Apartment Residence District) to R-3-23 (Multi-family Residence District), for a 0.686-acre parcel on Fremont Boulevard. Consistent with the General Plan and, in particular, Housing Element, the intent of the proposed project as described by the applicant is to provide an opportunity to allow for the development of an increased number of dwelling units on the project parcel. Based on the proposed GPA (18-23 DU/AC) and Rezoning (R-3-23), a minimum of 14 dwelling units (up to a permitted maximum of 16 dwelling units) would have to be established for any proposed development on the 0.686-acre parcel.

The proposed corresponding rezoning to R-3-23 would be consistent with the proposed General Plan designation of 18-23 DU/AC. As regulated by the General Plan (as further discussed below), the permitted density under the R-3-23 zoning would be 20.5-23 DU/AC. The R-3-23 zoning designation, therefore, is appropriate and compatible with the proposed General Plan redesignation of the site. The General Plan requires development at the midpoint of the density range.

In accordance with the Housing Element, when the residential range is between 6.5 and 70 dwelling units per acre (DU/AC), the minimum density (i.e., the minimum number of dwelling units to the acre) of the project must be at the midpoint of its designated density range. For instance, a parcel with a land use designation density range of 18-23 DU/AC is required to establish at least 20.5 DU/AC if development is proposed, unless environmental constraints or historic preservation goals preclude achievement of the midpoint density. Hence, the "permitted density" for the project parcel based on the proposed project would be from 20.5 to 23 DU/AC. With this land use designation, the developer would be entitled to develop the parcel from the minimum density at the midpoint (20.5DU/AC) to up to the maximum density (23DU/AC). Preliminary plans submitted indicate that a minimum of 14 units would be proposed for development on the project parcel, necessitating the approval of the proposed project (GPA and Rezoning).

Site Planning: The project site is an in-fill parcel that is located within a fully developed area. Multi-family developments are located to the east, south, northwest and northeast; single-family residences are located to the west and north. At such time the applicant proposes development, the development project would require Site Plan and Architectural Approval (SPAA) by the City's Planning Commission. Upon SPAA review, all building development standards, including

heights, sizes, and styles proposed on the site would be evaluated for consistency with the proposed R-3 zoning district and existing character of the neighborhood. Any development would also be evaluated to not create a new source of substantial light or glare. The site frontage along Fremont Boulevard would also be fully improved with curb, gutter, and sidewalk, etc.

PROJECT ANALYSIS:

General Plan Conformance: The applicant has provided a General Plan Amendment Justification Statement (enclosed) describing the proposed medium-density residential land use designation (18-23 DU/AC) as consistent with the surrounding medium-density residential land use designations and existing neighborhood character. The applicant states that the intention is to develop a high-quality 14-unit townhouse project in conformance with the proposed R-3-23, Multi-family Residence District rezoning. Although the project parcel is located at least 2 miles from the Fremont BART station, should a future "Irvington BART" station be developed, it would provide housing in proximity to that station. While noting that the City is facing an "acute housing shortage", the applicant also describes that the current land use designation and zoning of the parcel, which currently allows a restricted maximum development of 12 dwelling units, undermines the potential development of the parcel that is largely dominated by surrounding townhouses and single-family homes.

The existing General Plan land use designation for the project site is Medium Density Residential 15-18 DU/AC. The proposed project, a General Plan Amendment to change the land use designation to Medium Density Residential, 18-23 DU/AC, and corresponding rezoning to R-3-23, would increase the permitted density for development on the parcel, consistent with the goals, policies and objectives of the General Plan. The proposed project is necessary to facilitate the minimum anticipated development of 14 dwelling units on the 0.686-acre parcel.

As a multiple family residential use, the project would be consistent with the multi-family residential character of the surrounding neighborhood. Staff anticipates that the approval of the project would facilitate development of the site with a townhouse style project designed to be compatible with the existing and future development of the area with complete streetscape improvement. The surrounding land use designations are multi-family residential, with General Plan residential density designations as follows: 15-18 DU/AC to the north and east, 18-23 DU/AC to the south (towards Blacow Road); and 11-15 DU/AC to the west. The proposed project includes a rezoning request to R-3-23, consistent with the proposed 18-23 DU/AC land use designation. Thus, given the presence of surrounding multi-family residential land uses, the proposed project would result in a compatible land use with the adjacent multi-family residential areas. The proposed project (GPA and Rezoning) is a logical land use designation, consistent with existing General Plan goals, policies and objectives related to multiple-family use, which are as follows:

Housing Goals

Goals H2 and H3: The proposed project is compatible with these two residential goals, which identifies "High quality and well-designed new housing of all types throughout the city" (H2); and "Housing affordable and appropriate for a variety of Fremont households at all economic levels throughout the city consistent with the Hill Area Initiative of 2002" (H3). The parcel is currently vacant and has been cleared of all previous structures. Under Program 18 of Housing Goal 3B, the parcel is listed in the Housing Element's "Vacant or Underutilized Inventory List" as a candidate site that is appropriate for redesignation and rezoning to provide for additional new housing in the City. The parcel is identified to achieve a minimum development of at least 20.5 DU/AC (or 14 dwellings). Pursuant to the City's Inclusionary Ordinance, a minimum of 15 percent of all residential units in any residential project must be made available at affordable rents or affordable housing cost. This is not possible without the General Plan Amendment and Rezoning proposed.

Land Use Goals

Land Use Goal 1.9: The proposed General Plan Amendment is compatible with this land use goal which states, "To achieve a variety of housing types, the City has designated locations where moderate and higher density development is appropriate". Criteria for the location of higher density housing include access to transit, proximity to commercial areas, and proximity to a collector or arterial street. The proposed project parcel is located on an arterial street, Fremont Boulevard. Additionally, the proposed project would be appropriate in that it would permit a development density that

would at least meet the midpoint of 20.5 DU/AC as anticipated by the Housing Element for the parcel. In addition, the project would allow the R-3, Multi-family development standards to be applied to the future development of the parcel.

Land Use Policy LU 1.12: The proposed General Plan Amendment is compatible with this land use policy which states, "To the maximum extent feasible, play areas and open spaces shall be located to avoid conflict between residents attempting to reach these facilities and vehicular traffic". Based on preliminary plans submitted, it is anticipated that a centralized common open space and play area would be provided for the enjoyment of the future occupants. This General Plan goal would thus be met.

Land Use Policy LU 1.13 and 1.22: The proposed General Plan Amendment is compatible with this land use policy which states, "Buildings shall be designed to provide for maximum feasible visual and auditory privacy for each unit through the use of site design, open space, landscaping and appropriate building materials. Multi-family housing units shall be developed with consideration given to the relationship to adjacent development." Staff concurs with the applicant's assertion that the proposed project would have the potential to meet or implement the General Plan policies for multi-family residential development. These policies would be applied to the future development of the parcel.

Redevelopment Plan Conformance: The project site is located in the Irvington Redevelopment Project Area. The proposed project is consistent with the Redevelopment Plan because the project will allow for the anticipated minimum development of 14 housing units on the parcel, including a minimum of two affordable, below market rate units. This meets the Agency's overall goals revitalize the area and to produce, enhance and preserve affordable housing.

Zoning Regulations: The proposed project includes a rezoning to the R-3 Multi-family residential zoning district where any development on this site would be required to comply with standards and guidelines adopted for the district, as well as all applicable building and zoning regulations. Specifically, the proposed rezoning of the project parcel is from the R-G-29, Garden Apartment Residence, to the R-3-23, Multi-family Residence district. The following table represents lot and siting requirements which can be modified through the SPPA process:

R-3-23 Zoning Lot & Siting Standards for Project Parcel at 41762, 41778 and 41786 Fremont Boulevard	
Maximum Building Height	52 feet
Minimum Lot Size	6,000 square feet
Minimum Lot Width	60 feet
Street Frontage	35 feet
Front and Street Side Setback	20 feet
Interior Side and Rear Setbacks	10 feet
Lot Coverage	50 percent
Minimum Common Open Space Area	500 square feet for up to 5 units, plus 50 square feet for each additional unit; one dimension at least 15 feet

The size and configuration of the site offers the opportunity for development of a multi-family project consistent with the standards and guidelines of the R-3 District. Through SPPA, a multi-family project can be designed to fit with the character and scale of the existing neighborhood and its surroundings.

Inclusionary Zoning: Any future development on the site would be required to meet the City's Inclusionary zoning requirements through the inclusion of at least 15 percent of all residential units of any proposed residential project as Below Market Rate (BMR) units. The exact number of BMR units for the project parcel will be determined when the Finding for Site Plan and Architectural Approval is considered by the Planning Commission.

ENVIRONMENTAL ANALYSIS: An Initial Study and Draft Mitigated Negative Declaration have been prepared for this project. The environmental analysis identified concerns regarding potential impacts to cultural resources, hydrology/water quality, noise, air quality, and geology/soils. The Draft Mitigated Negative Declaration includes mitigation measures, which, if implemented, would reduce the identified impacts to non-significant levels. These mitigation measures have

been included as conditions of approval for this project. A more detailed description of the potential impacts is provided within the Initial Study for the project, which is included as an enclosure.

A finding is proposed that this project would not have a significant effect on the environment based upon the implementation of the identified mitigation measures. Accordingly, a Draft Mitigated Negative Declaration has been prepared for consideration by the Planning Commission.

Response from Agencies and Organizations: This project was submitted to the Alameda County Congestion Management Agency (ACCMA) for review to determine if implementation of the proposal would create an impact on the regional transportation network. No comments have been received to date from that Agency.

APPLICABLE FEES:

Development Impact Fees: This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities and traffic impact. The development of a residential project on the parcel will also be subject to park facilities and park dedication in-lieu fees. These fees shall be calculated at the fee rates in effect at the time of building permit issuance.

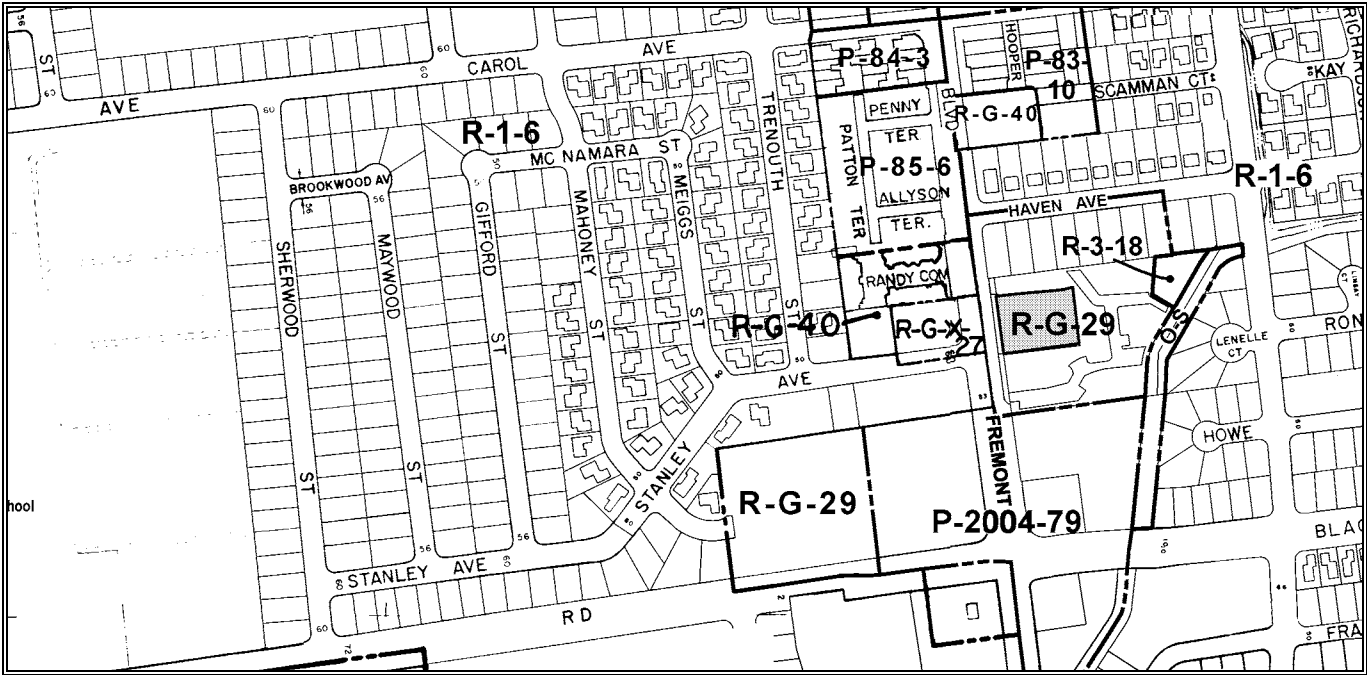
ENCLOSURES: Initial Study, Draft Mitigated Negative Declaration, Mitigation and Monitoring Program
Applicant's General Plan Amendment Justification Statement (Informational 1)
Conceptual Site Plan (Informational 2)

EXHIBITS: Exhibit "A" (General Plan Amendment Exhibit)
Exhibit "B" (Rezoning Exhibit)
Initial Study, Draft Mitigated Negative Declaration, and Mitigation Monitoring Program

Recommended Actions:

1. Hold public hearing.
2. Recommend that the City Council find the initial study conducted for the project has evaluated the potential impacts that could cause an adverse effect, either individually or cumulatively, on wildlife resources and find that there is no evidence the project would have any potential for adverse effect on wildlife resources. As a result, recommend the filing of a Certificate of Fee Exemption for the project.
3. Recommend to the City Council the adoption of Draft Mitigated Negative Declaration finding that there is no substantial evidence that the project, as mitigated, will have a significant effect on the environment and further find that this action reflects the independent judgment of the City of Fremont.
4. Recommend to the City Council approval of the Mitigation Monitoring Plan for the project.
5. Find that the project is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Housing Chapters as enumerated within the staff report.
6. Recommend to Council approval of PLN2004-00177 to amend the General Plan land use designation for the project in conformance with Exhibit "A" (General Plan Amendment Exhibit).
7. Recommend PLN2004-00177 to the City Council in conformance with Exhibit "B" (Rezoning Exhibit).

Existing Zoning
 Shaded Area represents the Project Site



Existing General Plan



EXHIBIT "A"

Attached to and made a part of

Resolution No. _____

adopted by the City Council of the City of Fremont, California

On the _____ **day of** _____, **20** 05.

GENERAL PLAN LAND USE DIAGRAM (SECTION)

AFFECTS LAND USE DIAGRAM(S) FOR THE IRVINGTON PLANNING AREA



From: Res, Med 15-18 du/ac

To: Res, Med 18-23 du/ac

[pc on 01-27-2005] 72-376, 78-376

Project Name: Atria Townhomes GPA & R-3 Rezoning

Project Number: PLN2004-00177 (gpa)

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EXHIBIT "B"

Attached to and made a part of

Ordinance No. _____

adopted by the City Council of the City of Fremont, California

On the _____ **day of** _____, **20** 05.

ZONING MAP (SECTION)

AFFECTS ZONING MAP(S) FOR THE IRVINGTON PLANNING AREA



From: R-G-29

To: R-3-23

Project Name: Atria Townhomes GPA & R-3 Rezoning

Project Number: PLN2004-00177 (rez)

